

REMARKS

Claims 18-20 are pending in the application and are under consideration. Claim 20 has been amended to correct a typographical error and to clarify the subject of the claimed invention. No new matter is added by this amendment. Entry of this amendment is respectfully requested. Applicants reserve the right to prosecute non-elected subject matter in subsequent divisional applications.

Claim Objections

The Examiner objected to Claim 20 because of the following informalities: "polynucleotide" on line 2, at the first occurrence is mistyped. Applicants have amended claim 20 to correct the typographical error. Accordingly, Applicants respectfully request that this objection be withdrawn.

Written description rejections under 35 U.S.C. § 112, first paragraph

Claim 19 along with dependent claims 18 and 20, are rejected under the written description 35 U.S.C. § 112, first paragraph.

Regarding the 90% sequence variants of SEQ ID NO:1, the Examiner alleges that Applicants' disclosure of the amino acid sequence of SEQ ID NO:1, in combination with Applicant's description of the 90% sequence variants of SEQ ID NO:1 (see e.g. page 11, line 17-19, of the specification as originally filed) is insufficient to support claim to these variants.

Applicants disagree and traverse for reasons already made of record in Applicants' Brief on Appeal filed on November 26, 2001, and received in the Patent Office on January 18, 2002 and on Applicant's Response to Office Action filed on October 3, 2002.

Applicants also disagree with the Examiner's unsupported assumption at page 5 of the Office Action, that ^{no} other naturally-occurring human polynucleotides encoding an amino acid sequence having at least 90% sequence identity to the sequence of SEQ ID NO:1 are known in the art." (Office Action, page 5) Applicants wish to point the Examiner's attention to the attached Exhibits. As shown in the GenBank entries (Exhibits A, B, and C) and the BLAST result in Exhibit D, at least 3 naturally-occurring human polynucleotides encode an amino acid sequence (g6563256, g5931602, and

g4960208) that are 100% identical to the sequence of SEQ ID NO:1. Thus, Applicants respectfully disagree with the Examiner that “no other naturally-occurring human polynucleotides encoding an amino acid sequence having at least 90% sequence identity to the sequence of SEQ ID NO:1 are known in the art.”

For these reasons, Applicants were in possession of the claimed invention at the time of filing, and that one of ordinary skill in the art would reasonably understand which variants are encompassed by the claims. Withdrawal of the rejection of claim 19 and dependent claims 18 and 20 under 35 U.S.C. § 112, first paragraph for alleged lack of written description is therefore respectfully requested.

Rejections under 35 U.S.C. § 112, second paragraph

Claims 20 was rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite because for failing to point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner stated that claim 20 is confusing as reciting “60 contiguous nucleotides comprising a sequence completely complementary to SEQ ID NO:2 because SEQ ID NO:2 has 1275 nucleotides (Office Action, page 4). Applicants have amended claim 20 as suggested by the Examiner, thus this rejection is overcome. Thus, the Examiner is respectfully requested to withdraw this rejection.

CONCLUSION

In light of the above amendments and remarks, Applicants submit that the present application is fully in condition for allowance, and request that the Examiner withdraw the outstanding **objections and rejections**. Early notice to that effect is earnestly solicited.

If the Examiner contemplates other action, or if a telephone conference would expedite allowance of the claims, Applicants invite the Examiner to contact Applicants' Attorney/Agent below.

Applicants believe that no fee is due with this communication. However, if the USPTO determines that a fee is due, the Commissioner is hereby authorized to charge Deposit Account No. **09-0108**, as set forth in the enclosed fee transmittal letter.

Respectfully submitted,

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